

# Notice of Allowability

Application No.

10/775,215

Examiner

Michael I Poe

Applicant(s)

KINNEY ET AL.

Art Unit

1732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the preliminary amendment filed on 2/11/2004 and the election filed on 6/22/2004.
2. ☒ The allowed claim(s) is/are 18-23 (renumbered 1, 2, 5, 6, 4 and 3, respectively).
3. ☒ The drawings filed on 11 February 2004 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All   b) ☐ Some\*   c) ☐ None   of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date 20040211
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date 20040902.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

## **EXAMINER'S AMENDMENT**

### ***Election/Restrictions***

1. Applicant's election with traverse of Group III, claims 18-23 in the reply filed on June 22, 2004 is acknowledged. The traversal is on the ground(s) that it would not be a serious burden for the examiner to examine all claims simultaneously. This is not found persuasive because a complete search for the non-elected inventions of Groups I (claim 14), II (claims 15-17) and IV (claims 24-27) would require searches in classes 261, 29 and 83, respectively, for the specific structural limitations and the specific stepwise requirements of the non-elected inventions that would not be required for a complete search of the elected invention of Group III (claims 18-23) which requires only searches in class 264 for the specific stepwise requirements of the elected invention.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 14-17 and 24-27 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to nonelected inventions, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on June 22, 2004. In order to expedite allowance of the elected invention, the applicant has authorized the cancellation of claims drawn to the non-elected inventions without prejudice to the filing of divisional applications.

### ***Authorization***

3. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with applicant's attorney Stephen Fabry on September 2, 2004.

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**Amendments**

4. The application has been amended as follows:

The title has been changed to:

-- COOLING TOWER TOP FORMING METHOD --.

The abstract has been amended as follows:

Line 1, -- method for forming a -- has been inserted after "A".

The specification has been amended as follows:

Paragraph # 0001, line 3, -- now U.S. Patent No. 6,736,374 B2, -- has been inserted after  
"APPARATUS,".

Claims 14-17 and 24-27 have been canceled without prejudice as being drawn to non-elected inventions.

**Examiner's Statement(s) of Reasons for Allowance**

5. The following is an examiner's statement of reasons for allowance:

- (1) Claim 18 includes each and every limitation of allowed product claim 1 of U.S. Patent No. 6,736,374 B2 to the applicant; therefore, claim 18 directed to the method of making the allowed product and the claims dependent thereupon are allowable in view of *In re Ochiai*, 71 F.3d 1565, 37 USPQ2d 1127 (Fed. Cir. 1995) and *In re Brouwer*, 77 F.3d 422, 37 USPQ2d 1663 (Fed. Cir. 1996). See MPEP Sections 821.04 and 2116.01 [R-2].

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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**Conclusion**

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael I Poe whose telephone number is (571) 272-1207. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaianni can be reached on (571) 272-1196. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Michael Poe/mip



**MICHAEL P. COLAIANNI**  
**SUPERVISORY PATENT EXAMINER**